



BOULT ■ CUMMINGS  
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REC'D TN  
REGULATORY AUTH.

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'02 JAN 7 PM 1 41

January 7, 2002  
EXECUTIVE SECRETARY

David Waddell, Esq.  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

Re: Show Cause Proceeding Against Talk.com, Inc.  
Docket No. 01-00216

Dear David:

Please find enclosed the First Set of Interrogatories and the First Request for Production of Documents to the Consumer Services Division of the Tennessee Regulatory Authority filed on behalf of Talk.com, Inc. in the above-captioned proceeding.

Please call me if you have any questions.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:

  
Henry Walker



HW/nl

c: Lyn Questel

TimPhillips, Esq.

Steve Augustino, Esq.

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**IN RE: SHOW CAUSE PROCEEDING  
AGAINST TALK.COM, INC.**

**DOCKET NO. 01-00216**

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**RESPONDENT'S FIRST SET OF INTERROGATORIES TO THE STAFF OF THE  
CONSUMER SERVICES DIVISION OF THE TENNESSEE REGULATORY  
AUTHORITY AND THE STAFF OF THE TENNESSEE REGULATORY AUTHORITY**

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Respondent Talk.com Holding Corp., d/b/a/ Talk.com, ("Talk.com" or the "Company") by its attorneys, pursuant to the Hearing Officer's Order Establishing Procedural Schedule, issued January 3, 2002, hereby requests the Staff of the Consumer Services Division ("CSD") of the Tennessee Regulatory Authority ("TRA" or the "Authority") and the Staff of the TRA (collectively "the Staff") to respond to the Interrogatories set forth herein on or before January 22, 2002

**INSTRUCTIONS**

1. For each Interrogatory for which a substantive response is withheld under a claim of privilege or work-product immunity, provide a statement identifying the privilege or immunity claimed and the facts giving rise to that privilege or immunity.
2. If you object to any Interrogatory on grounds other than privilege or work-product immunity, state in detail the basis for the objection. Further, if you object to any part of an Interrogatory, specify the part. Similarly, if you do not object to a particular Interrogatory, but are unable to respond fully to that Interrogatory, then respond to the fullest extent possible and provide an explanation for your lack of a full response.

3. If you contend that a particular Interrogatory, or a definition or an instruction applicable thereto, is ambiguous, such claim shall not provide a basis for refusing to respond. You are instructed to set forth the allegedly ambiguous language and the interpretation of that language that you have adopted in responding to the Interrogatory in question.

4. The present tense includes the past and future tenses.

5. The use of the singular form of any word includes the plural and vice-versa and shall be construed as necessary to bring within the scope of the Interrogatory all responses that might otherwise be construed to be outside of its scope.

6. The connectors "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Interrogatory all responses that might otherwise be construed to be outside of its scope.

7. These Interrogatories are continuing in nature and require you to supply such further or different information relative thereto as you may receive up to and including the day of trial.

8. Where the name or identity of a party or person is requested, or the Interrogatory asks you to list persons, please state the full name, work title, home address, business address (including the name of the entity or business unit employing the person, where applicable), home telephone number and business telephone number of the party or person given in response, as well as (where applicable) the home telephone number of the person's immediate supervisor.

9. Unless otherwise indicated, these Interrogatories refer to the time, place and circumstances of the subject matter mentioned or set out in the above-referenced matter.

10. Where the knowledge or information or possession of a person is indicated, such a request includes knowledge of the person's accountants, representatives, consultants, agents, officers, directors, employees, investigators, or anyone else acting on the person's behalf.

11. All Interrogatory answers shall be given in narrative form, rather than by production of business records, unless you can demonstrate that (1) the answer to an Interrogatory may be derived or ascertained from your business records or from an examination, audit, or inspection of those business records or a compilation, abstract, or summary of them, and (2) the burden of deriving or ascertaining the answer is substantially the same for you as for Plaintiffs in this case, and (3) you have not already derived or ascertained the information requested. If you can demonstrate the foregoing then you may specify the records from which the answer may be derived or ascertained and afford Talk.com the reasonable opportunity to examine, audit, or inspect the records and to make copies, compilations, abstracts, or summaries. Specification shall be in sufficient detail to permit Talk.com to locate and to identify, as readily as you, the records from which the answer may be ascertained.

12. For each of these Interrogatories, identify the person(s) who drafted, or who assisted in the drafting of, the answers to each of these Interrogatories.

## DEFINITIONS

1. The term "document" is used in its broadest sense and means and includes graphic matter of any kind or nature, whether written, printed, typed, recorded, filmed, punched, transcribed, taped or produced or reproduced by any means. The term "document" means and includes, without limitation, all appraisals, records, personal notes, e-mails, cablegrams, telexes, facsimiles, studies, calendars, day-timers, diaries, desk calendars, appointment books, agendas, minutes, pamphlets, envelopes, telephone messages, graphs, records of meetings, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, summaries or records of meetings or conferences, tabulations, analyses, evaluations, projections, work papers, statements, summaries, reports, journals, billing records, invoices, correspondences, letters, financial statements, balance sheets, accounting entries, tax returns, loan documents, and/or all written or recorded matter of any kind whatsoever. The term "document" also means and includes every other means by which information is recorded or transmitted including, without limitation, photographs, videotapes, tape recordings, microfilms, punchcards, computer programs, printouts, computer disks or diskettes, software, all recordings made through data processing and/or computer techniques, and the written information necessary to understand and use such materials. The term "document" is further defined to mean the original, any drafts, and any non-identical copies (*i.e.*, those bearing notations, marks, or marginalia not found on the original document). Please note that records of electronic mail, whether active, archived or otherwise recoverable, are specifically included within the above definition.

2. The term "person" refers to a natural person, a group of natural persons acting as individuals, a group of persons acting in a collegial capacity (*e.g.*, as a committee, board of

directors, etc.), a trust, a corporation, a partnership, a limited partnership, a joint venture, a limited liability company, a government or governmental agency and/or any other incorporated or unincorporated business, government or entity.

3. The terms “you” and “your” refers to the Staff of the Consumer Services Division of the Tennessee Regulatory Authority and the Staff of the Tennessee Regulatory Authority, and includes each of your present or former attorneys, accountants, representatives, consultants, agents, officers, directors, employees, investigators, predecessor entities, and other related entities or anyone else acting on your or their behalf.

4. The term “employee” includes any person, including all executives, managers, supervisors, and professionals, who are or have been employed on a full or part-time basis.

5. The term “relating to” means constituting, containing, embodying, reflecting, identifying, describing, incorporating, referring to, dealing with or in any way in connection with or pertaining to.

6. When identifying natural or non-natural persons in your Interrogatory answers, state their full names (and any aliases and trade or fictitious names) and their current or last known business addresses and telephone numbers (or, alternatively, in the case of natural persons, their residential addresses and telephone numbers if a business address and telephone number are unknown).

7. When identifying oral, telephonic, or other electronic communications in your Interrogatory answers, state (a) when and how such communications occurred; (b) who participated in or was otherwise present during such communications; and (c) the substance of each communication.

8. The term "communication" shall mean any meeting, statement, document, conversation, transmittal of information or request for information whether by written, oral, electronic or other means.

9. The term "Show Cause Order" shall mean the "Order Requiring Talk.com to Appear and Show Cause Why a Cease and Desist Order and/or Fine Should not be Imposed" issued on November 8, 2001 by the Tennessee Regulatory Authority in Docket No. 01-00216.

## INTERROGATORIES

1. Identify all instructions, manuals, training guides or other materials used in training and preparing the individuals responsible for investigating consumer complaints filed in Tennessee.
2. Identify each person who has knowledge of your investigation of Talk.com's business activities in Tennessee that is subject to the Show Cause Order. For each person(s) describe the activities this person performed and the length of time spent on each activity.
3. For each complaint you allege subjects Talk.com to liability in Tennessee, describe in detail the processes, standards and methods used to evaluate the consumer complaints and to calculate the number of days of violation of Tennessee rules and regulations. Include a description of any manuals, standards, guides or other materials used during the evaluation of the consumer complaints.
4. For each complainant identified in the Show Cause Order, identify the specific TRA staff member(s) responsible for reviewing, analyzing and verifying the consumer complaints. For each staff member, describe the activities this person performed.
5. Identify each and every complaint filed in Tennessee that concern the use of a promotional check issued by a telecommunications service provider other than Talk.com. Identify the person(s) who participated in the analysis, investigation, review and summary of the complaints filed concerning promotional checks. For each person(s) describe the activities this person performed and the conclusion, if any, reached by the staff concerning the merits of the complaint.
6. Identify all proceedings, formal or informal, in which the TRA has examined or investigated the practices of BellSouth in (a) providing "line loss" information to unaffiliated



local or long distance carriers, or (b) providing notice of cancellation by customers of service(s) previously ordered. Identify all such proceedings by docket number and state the findings or conclusions reached.

7. State the actions, if any the TRA takes to investigate or verify the accuracy of information contained in the subscriber listing information or in the directory assistance information made available in Tennessee. If the TRA has reviewed or analyzed subscriber information or directory assistance in any docketed proceeding, identify such proceeding by docket number and state any findings or conclusions reached.

8. Identify all instructions, manuals, training guides or other materials provided to TRA staff members, or members of the public, concerning the process for updating or verifying the accuracy of subscriber listing information or directory assistance information in Tennessee for verifying the accuracy of directory assistance in Tennessee.

9. If any reports, memorandum, documentation, letters, emails, reports or other written documents were created by you in connection with the review, analysis of the consumer complaints included in the Show Cause Order against Talk.com, identify the person(s) who created, drafted, review, signed or approved such reports, memorandum, documentation, letters, emails or other written documents. Identify where the records of such documents are maintained, stored or preserved; and state whether any such records have been discarded or destroyed.

10. Identify all complaints filed by the Commission and/or Authority Staff members (including, but not limited to, the Consumer Services Division) and/or their household members concerning the business practices of Talk.com. Identify all documents relating to such complaints including, but not limited to, all notes, summaries, emails, correspondences or

recordings of conversations or investigations or other materials regarding these complaints. Identify where the records of such documents are maintained, stored or preserved, and state whether any such records have been discarded or destroyed.

11. Identify the person(s) who participated in the creation of the original Do Not Call Registry and each subsequent version. For each person(s), describe the activities this person performed and the time period(s) each person was involved in the activity.

12. Identify the methodology used to create the original Do Not Call Registry and each subsequent version. Identify any reports, memorandum, documentation, letters, emails or other written documents, produced by you in connection with the compilation of the Do Not Call Registry.

13. Identify all instructions, manuals, training guides or other materials provided to the TRA Staff members or members of the public concerning the process of submitting and recording a Do Not Call Registry request from a Tennessee consumer.

14. State whether you have performed any independent investigation of the alleged violation of the Do Not Call Registry in order to verify that the complainant was actually contacted by Talk.com. If any independent investigations were made, identify the person(s) who participated in the review, supervision, placement or analysis of the investigation. Identify all documents describing, summarizing or analyzing such investigations, and identify where the records of such investigations are maintained, stored or preserved; and state whether any such records have been discarded or destroyed.

15. Identify all communications with BellSouth or any other carrier authorized to do business in the State of Tennessee concerning Talk.com's business practices in Tennessee including, but not limited to, Talk.com's marketing, billing, provisioning or services. Identify

each person(s) who participated in the communication, the type of communications (*i.e.* letter, meeting, phone call, etc.), the date of the communication and the specific subject of the communication.

16. Identify all communications and/or presentations to the FCC, NARUC, or any other state regulatory or consumer services representative body (public service commission, public utilities commission, attorney general's office etc.) in which Talk.com is the subject of the communication. Identify each person(s) who participated in the communication, the type of communications (*i.e.* letter, meeting, phone call, etc.), the date of the communication and the specific subject of the communication.

17. Identify all proceedings, formal or informal, in which the TRA has examined or investigated billing errors, including but not limited to double billing and mistaken billing, by BellSouth or by unaffiliated local or long distance carriers.

18. Identify all "witnesses from BellSouth" referred to in paragraph 31 (page 35) of the Show Cause Order and all documents, notes or other materials that form the basis for the alleged contentions of these witnesses.

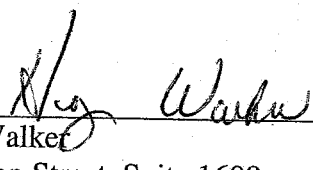
19. Identify the person(s) with knowledge of the facts alleged in the Show Cause Order as well as each particular paragraph within the Show Cause Order for which each such person(s) has/have knowledge.

20. Identify all the person(s), including but not limited to any experts, that you intend to call as witnesses in this matter, as well as the subject matter and detail of the testimony, which each such witness (including any expert) is expected to testify.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: \_\_\_\_\_

  
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Dated: January 7, 2002

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**IN RE: SHOW CAUSE PROCEEDING  
AGAINST TALK.COM, INC.**

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)  
) **DOCKET NO. 01-00216**  
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**RESPONDENT'S FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS TO  
THE STAFF OF THE CONSUMER SERVICES DIVISION OF THE TENNESSEE  
REGULATORY AUTHORITY AND THE STAFF OF THE TENNESSEE  
REGULATORY AUTHORITY**

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Respondent Talk.com Holding Corp., d/b/a/ Talk.com, ("Talk.com" or the "Company") by its attorneys, pursuant to the Hearing Officer's Order Establishing Procedural Schedule, issued January 3, 2002, hereby requests the Staff of the Consumer Services Division ("CSD") of the Tennessee Regulatory Authority ("TRA" or the "Authority") and the Staff of the TRA (collectively "the Staff") to produce for inspection and copying the originals of the documents described in Section III below, at the offices of Henry Walker, Boulton, Cummings, Connors & Berry, PLC, 414 Union Street, Suite 1600, Nashville, Tennessee 37219, on or before January 22, 2002.

**INSTRUCTIONS**

1. For each document responsive to this request that is withheld under a claim of privilege or work-product immunity, provide a statement identifying: (a) each author; (b) each addressee; (c) each person to whom the document was sent; (d) the custodian of the original and each copy of the document as of the date of your response to this request; (e) the exact location of the original and each copy of the document as of the date of your response to this request;

(f) the title and date of the document; (g) the number of pages in the document; (h) the nature and subject matter of the document sufficient to accurately identify the document; (i) the privilege or immunity claimed and facts giving rise to that privilege or immunity; and (j) the specific numbered request to which the document is responsive.

2. If you object to any request on grounds other than privilege or work-product immunity, state in detail the basis for the objection.

3. If you contend that a particular request, or a definition or an instruction applicable thereto, is ambiguous, such claim shall not provide a basis for refusing to respond. You are instructed to set forth the allegedly ambiguous language and the interpretation of that language that you have adopted in responding to the request in question.

4. You should produce every copy of a document that is not identical to the original of the document requested, including copies with marginalia.

5. You should either organize and segregate the documents you produce according to the specific numbered requests listed below to which the documents are primarily responsive, and identify the source of each document, or if they are being produced in their original form, identify where the document was located, including but not limited to what room, file cabinet and drawer, what persons have access to that area and produce a copy of the file folder jacket in which the document was contained.

6. You should produce all documents requested below that are within your possession, custody or control, including documents within the possession, custody or control of your present or former attorneys, accountants, representatives, consultants, agents, officers, directors, employees, investigators, or anyone else acting on your behalf.

7. With respect to each document otherwise responsive to this request that has been lost, discarded or destroyed, identify (a) each author; (b) each addressee; (c) the date, title and subject matter of the document; (d) the date of the disposal; (e) the manner of the disposal; (f) the reason for the disposal; (g) each person who authorized the disposal; (h) each person who carried out the disposal; and (i) each person with any knowledge concerning the disposal.

8. With respect to each document otherwise responsive to this request that is no longer in your possession, custody or control, identify (a) each author; (b) each addressee; (c) the title, date, and subject matter of the document; (d) the last date on which the document was in your control; (e) each person now in control of the document; (f) the reasons for the disposal or release of the document; and (g) each person with any knowledge concerning the document's disposal or release.

9. The present tense includes the past and future tenses.

10. The use of the singular form of any word includes the plural and vice-versa and shall be construed as necessary to bring within the scope of these discovery requests all responses that might otherwise be construed to be outside of its scope.

11. The connectors "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these discovery requests all responses that might otherwise be construed to be outside of their scope.

12. Documents should be produced in a manner that identifies the files of the entity and person from which they were produced.

## DEFINITIONS

1. The term "document" is used in its broadest sense and means and includes graphic matter of any kind or nature, whether written, printed, typed, recorded, filmed, punched, transcribed, taped or produced or reproduced by any means. The term "document" means and includes, without limitation, all appraisals, records, personal notes, e-mails, cablegrams, telexes, facsimiles, studies, calendars, day-timers, diaries, desk calendars, appointment books, agendas, minutes, pamphlets, envelopes, telephone messages, graphs, records of meetings, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, summaries or records of meetings or conferences, tabulations, analyses, evaluations, projections, work papers, statements, summaries, reports, journals, billing records, invoices, correspondence, letters, financial statements, balance sheets, accounting entries, tax returns, loan documents, and/or all written or recorded matter of any kind whatsoever. The term "document" also means and includes every other means by which information is recorded or transmitted including, without limitation, photographs, videotapes, tape recordings, microfilms, punchcards, computer programs, printouts, computer disks or diskettes, software, all recordings made through data processing and/or computer techniques, and the written information necessary to understand and use such materials. The term "document" is further defined to mean the original, any drafts, and any non-identical copies (*i.e.*, those bearing notations, marks, or marginalia not found on the original document). Please note that records of electronic mail, whether active, archived or otherwise recoverable, are specifically included within the above definition.

2. The term "person" refers to a natural person, a group of natural persons acting as individuals, a group of persons acting in a collegial capacity (*e.g.*, as a committee, board of directors, etc.), a trust, a corporation, a partnership, a limited partnership, a joint venture, a



limited liability company, a government or governmental agency and/or any other incorporated or unincorporated business, government or entity.

3. The terms “you” and “your” refers to the Staff of the Consumer Services Division of the Tennessee Regulatory Authority and the Staff of the Tennessee Regulatory Authority, and includes each of your present or former attorneys, accountants, representatives, consultants, agents, officers, directors, employees, investigators, predecessor entities, and other related entities or anyone else acting on your or their behalf.

4. The term “employee” includes any person, including all executives, managers, supervisors, and professionals, who are or have been employed on a full or part-time basis.

5. The term “relating to” means constituting, containing, embodying, reflecting, identifying, describing, incorporating, referring to, dealing with or in any way in connection with or pertaining to.

6. The term “Show Cause Order” shall mean the “Order Requiring Talk.com to Appear and Show Cause Why a Cease and Desist Order and/or Fine Should not be Imposed” issued on November 8, 2001 by the Tennessee Regulatory Authority in Docket No. 01-00216.

7. The connectors “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Interrogatory all responses that might otherwise be construed to be outside of its scope.

## DOCUMENTS TO BE PRODUCED

You are requested to produce the following documents:

1. Any and all documents identified in your answers to Respondent's First Set of Interrogatories to the Staff of the Consumer Services Division of the Tennessee Regulatory Authority and the Staff of the Tennessee Regulatory Authority, including, but not limited to, all notes, summaries, emails, correspondences or recordings of conversations, interviews, and other materials. Identify where the records of such complaints are maintained, stored or preserved; and state whether any such records have been discarded or destroyed.
2. Any and all documents relating to any oral or written demands issued by the TRA or Consumer Services Division Staff to Talk.com prior to the issuance of the Show Cause Order including, but not limited to, informal information requests, specific investigations, reports, summaries and analysis of Talk.com's business in Tennessee.
3. Any and all documents relating to the Show Cause Order including but not limited to:  
(i) any and all documents relating to the methodology used by you in the review of the consumer complaints filed against Talk.com; (ii) any and all documents relating to Staff's evaluation of the consumer complaints and/or Talk.com's verification procedures.
4. Any and all documents relating to any communications with BellSouth concerning billing, provisioning, marketing and soliciting of customers in Tennessee by (a) BellSouth; (b) Talk.com; or (c) other unaffiliated telecommunications service providers in Tennessee.
5. Any and all documents relating to "Do Not Call Registry" violations including, but not limited to copies of the official Tennessee "Do Not Call" Registry as issued by the TRA each month since May 2000 through and including December 2001.

6. Any and all documents relating to the sign-up method of each complainant in the Show Cause Order listed on the "Do Not Call" Registry, including date the request was submitted, a copy of the request and date the individual first appeared on the official list.
7. Any and all documents relating to any general slamming, cramming or Do Not Call Registry violation investigations performed by the Staff regardless of carrier including all summaries, analyses or verifications of its findings.
8. Any and all documents used by the Consumer Services Division for generating the Consumer Services Division Monthly Report for each month during 2000 and 2001.
9. Any and all documents used by the Consumer Services Division to support the classification of Telephone Companies in the Consumer Services Division monthly reports for each month during 2000 and 2001.
10. Any and all documents used by the Consumer Services Division to calculate the number of regulated complaints received for the Consumer Services Division monthly report for each month during 2000 and 2001.
11. Any and all documents used by the Consumer Services Division to calculate the number of telemarketing complaints received for the Consumer Services Division monthly report for each month during 2000 and 2001.
12. Any and all documents used by the Consumer Services Division to identify the number of Tennesseans signed up for the Do Not Call Register listed in the Consumer Services Division monthly report for each month during 2000 and 2001.
13. Any and all documents used by the Consumer Services Division to calculate the number complaints received in the "billing" category for the Consumer Services Division

monthly report for each month during 2000 and 2001, including, but without limitation, copies of all complaints included in this category.

14. Any and all documents used by the Consumer Services Division to calculate the number of complaints received in the "delayed installation" category for the Consumer Services Division monthly report for each month during 2000 and 2001, including, but without limitation, copies of all complaints included in this category.

15. Any and all documents used by the Consumer Services Division to calculate the number of complaints received in the "service" category for the Consumer Services Division monthly report for each month during 2000 and 2001, including, but without limitation, copies of all complaints included in this category.

16. Any and all notices, memoranda, or other records relating to billing errors by other telecommunications service providers in Tennessee, including, but not limited to, errors by AT&T or BellSouth.

17. Any and all samples, models, instructions, training aids or other materials provided to TRA staff, including Consumer Services Division Staff, for use in review or evaluation of telemarketing or verification scripts for compliance with Tenn. R. & Reg. 1220-4-2-.56(3) and Tenn. R. & Reg. 1220-4-2.56(2)(c).

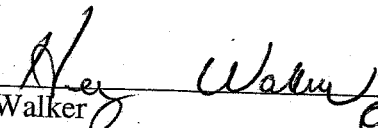
18. Any and all documents relating to Access One, including but not limited to notes, summaries, emails, correspondences or other materials pertaining to the settlement with Access One.

19. Any and all documents upon which you or any of your witnesses intend to rely at the hearing in this matter.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:

  
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Of Counsel  
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Francie McComb  
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Dated: January 7, 2002

**CERTIFICATE OF SERVICE**

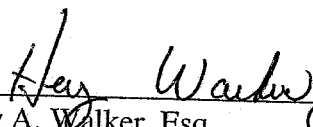

I, the undersigned, do hereby certify that I have caused to be served the a copy of the enclosed Second Response to Request for Consumer Protection Information on all parties to the matter as listed below by hand, unless otherwise indicated, as follows:

Cynthia E. Kinser  
Deputy Attorney General  
Consumer Advocate & Protection Division  
Office of the Attorney General, State of Tennessee  
P.O. Box 20207, Nashville, Tennessee 37202

Timothy C. Phillips  
Assistant Attorney General  
Consumer Advocate & Protection Division  
Office of the Attorney General, State of Tennessee  
P.O. Box 20207, Nashville, Tennessee 37202

Shilina B. Chatterjee  
Assistant Attorney General  
Consumer Advocate & Protection Division  
Office of the Attorney General, State of Tennessee  
P.O. Box 20207, Nashville, Tennessee 37202

This 7<sup>th</sup> day of January, 2002.

  
Henry A. Walker, Esq.   
Boulton, Cummings, Connors & Berry  
414 Union Street, Suite 1600  
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*Counsel for Talk.com, Inc.*